

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**KENDRICK HARRIS,**

**Plaintiff**

**v.**

**MARIO FENNOY,**

**Defendant.**

**No. 05-CV-0101-DRH**

**ORDER**

**HERNDON, District Judge:**

On February 15, 2005, Kendrick Harris, *pro se*, filed a Civil Rights Complaint pursuant to 42 U.S.C. § 1983 against the East St. Louis Police, Mario Fennoy and the City of East St. Louis, Illinois (Doc. 1). On April 4, 2005, the Court dismissed the City of East St. Louis and the East St. Louis Police Department as Defendants and allowed Harris to proceed in forma pauperis on his claims against Fennoy (Doc. 4).

On May 11, 2005, the Court denied Harris' request for entry of default for failure to properly effect service (Doc. 13). In response the Court's May 11<sup>th</sup> Order, Harris filed a memorandum to the Court requesting that the United States Marshal serve Fennoy. Pursuant to **FEDERAL RULE OF CIVIL PROCEDURE 4(c)(2)**, the Court **GRANTS** Harris' request.

**IT IS ORDERED** that Plaintiff shall complete and submit a USM-285 form for Defendant Fennoy within **THIRTY (30) DAYS** of the date of entry of this Memorandum and Order. The Clerk is **DIRECTED** to send Plaintiff **one (1)** USM-285 forms with Plaintiff's copy of this Memorandum and Order. **Plaintiff is advised that service will not be made on a defendant until Plaintiff submits a properly completed USM-285 form for that defendant.**

The Clerk is **DIRECTED** to prepare Form 1A (Notice of Lawsuit and Request for Waiver of Service of Summons) and Form 1B (Waiver of Service of Summons) for Defendant Mario Fennoy. The Clerk shall forward those forms, USM-285 forms submitted by the Plaintiff, and sufficient copies of the complaint to the United States Marshal for service.

The United States Marshal is **DIRECTED**, pursuant to Rule 4(c)(2) of the Federal Rules of Civil Procedure, to serve process on Defendant Mario Fennoy in the manner specified by Rule 4(d)(2) of the Federal Rules of Civil Procedure. Process in this case shall consist of the complaint, applicable forms 1A and 1B, and this Memorandum and Order. For purposes of computing the passage of time under Rule 4(d)(2), the Court and all parties will compute time as of the date it is mailed by the Marshal, as noted on the USM-285 form.

The United States Marshal shall file returned waivers of service as well as any requests for waivers of service that are returned as undelivered as soon as they are received. If a waiver of service is not returned by a defendant within

**THIRTY (30) DAYS** from the date of mailing the request for waiver, the United States Marshal shall:

- Request that the Clerk prepare a summons for that defendant who has not yet returned a waiver of service; the Clerk shall then prepare such summons as requested.
- Personally serve process upon the defendant pursuant to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c).
- Within ten days after personal service is effected, the United States Marshal shall file the return of service for the defendant, along with evidence of any attempts to secure a waiver of service of process and of the costs subsequently incurred in effecting service on said defendant. Said costs shall be enumerated on the USM-285 form and shall include the costs incurred by the Marshal's office for photocopying additional copies of the summons and complaint and for preparing new USM-285 forms, if required. Costs of service will be taxed against the personally served defendant in accordance with the provisions of Fed. R. Civ. P. 4(d)(2) unless the defendant shows good cause for such failure.

Plaintiff is **ORDERED** to serve upon defendant or, if appearance has been entered by counsel, upon that attorney, a copy of every further pleading or other document submitted for consideration by this Court. He shall include with the original paper to be filed with the Clerk of the Court a certificate stating the date that a true and correct copy of any document was mailed to defendant or his counsel. Any paper received by a district judge or magistrate judge which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court.

Defendant is **ORDERED** to timely file an appropriate responsive

pleading to the complaint, and shall not waive filing a reply pursuant to 42 U.S.C. § 1997e(g).

**IT IS SO ORDERED.**

Signed this 27th day of May, 2005.

/s/ David RHerndon  
**United States District Judge**